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May 24, 2019

Via Email and Regular U.S. Mail

David Emadi, Executive Secretary
Georgia Government Transparency and Campaign
Finance Commission
200 Piedmont Avenue SE, Suite 1416, West Tower
Atlanta, GA 30334

Re: Notice of Additional Allegations – Case No. 2018-0104

Dear Mr. Emadi:

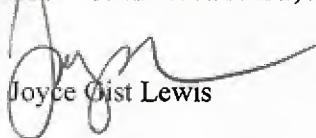
In accord with Ga. Comp. R. & Regs. 189-2-.03(3), this letter serves as the Abrams campaign's response to the Commission's Notice of Additional Allegations ("Notice"), dated May 10, 2019 and received via email on May 13, 2019. In the Notice, the Commission sets forth additional allegations it purports to 1) arise from the above-referenced Complaint (the "Wingo Complaint"); and 2) justify the scope of the subpoena served on the campaign on April 26, 2019 ("Subpoena"). Because the Notice fails to identify any facts or documents supporting the Commission's position or the Subpoena, this letter will address the legal theories underlying the allegations stated in the Notice.

Citing Advisory Opinion No. 2017-05, the Abrams campaign previously provided an analysis of these same legal theories last year in its written response to the Wingo Complaint. *See* October 9, 2018 D. Lindenbaum Letter (the "Oct. 9 Memo"), enclosed and incorporated herein by reference. As stated then, those allegations have no basis in fact or law, and the political action committee named in the Wingo Complaint "never expended money for communications referring to Stacey Abrams or any of her opponents" "for the purpose of influencing the nomination for election or election of any person." *Id.*

The Abrams campaign has endeavored to ensure full compliance with the Ethics in Government Act. My client's review in conjunction with its efforts to respond to the Commission's April 2019 subpoena shows that the Abrams campaign and its agents were not associated with, did not establish, and did not solicit funds on behalf of the entities named in the Subpoena and Notice: Care in Action, PowerPAC Georgia, Higher Heights for Georgia, and Gente4Abrams. We have seen no evidence that these entities coordinated with the Abrams campaign to expend funds "for the purpose of influencing the nomination for election or election of" Ms. Abrams or her opponents. Despite being requested to do so, the Commission also has not pointed to any facts to support such a conclusion. Accordingly, the Abrams campaign denies the allegations of the Notice.

Sincerely,

KREVOLIN & HORST, LLC



Joyce Gist Lewis

Enclosure

cc: Client

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October 9, 2018

VIA USPS and Email

Bethany Whetzel
Deputy Executive Director
Georgia Government Transparency and Campaign Finance Commission
200 Piedmont Avenue SE Suite 1416-West Tower
Atlanta, GA 30334
BWhetzel@ethics.ga.gov

Re: In the Matter of Stacey, Case No. 2018-0104 and Emily Ellison, Case No. 2018-0106

Dear Ms. Whetzel:

I am writing on behalf of my clients, Stacey Abrams and Emily Ellison (collectively “the Campaign”), in response to the above referenced Complaints which we received by mail on August 8, 2018. As is demonstrated below, the allegations in the Complaints have no basis in either fact or law and Leader Abrams and her Campaign have gone to great lengths to ensure full compliance with the Georgia Government Transparency Campaign Finance Act (“Act”). Further, the allegations in these Complaints are based on speculation and an erroneous interpretation of the Commission’s guidance.

1. Background

BLUE Institute Enterprises, Inc. was established and formed by Ashley Robinson and Genny Castillo, two former staff members of the Campaign. The organization was formed to continue the work of a 2015 collaboration called the Blue Institute. The purpose of the Blue Institute was to provide campaign skills to individuals of color who are underrepresented on campaign staffs through trainings throughout the country. While the Campaign did know that Ms. Robinson and Ms. Castillo were continuing to organize these trainings throughout the country, BLUE Institute Enterprises was formed without the knowledge or consent of the Campaign.

2. Legal Analysis

The Complainant has misread the Commission’s Advisory Opinion No. 2017-05. That Opinion concluded that neither a candidate nor her agents may “establish, operate, solicit donations for, nor coordinate communications with a nonprofit or other entity that expends

money for communications referring to the candidate or the candidate's opponent.”¹ That last passage is crucial and it is clear that the BLUE Institute Enterprises has never expended money for communications referring to Stacey Abrams or any of her opponents. In fact, it is the Campaign’s understanding that the vast majority of the BLUE Institute Enterprises trainings have been held out of the state of Georgia and for those few that have been held in Georgia, the activities do not rise to the level of expenditure.

Blue Institute Enterprise’s activities do not meet the definition of expenditure under Georgia law. As the Commission has repeatedly stated, “express advocacy” is required for a communication to be considered an expenditure. Express advocacy is defined as a monetary or in-kind transaction that is “made for the purpose of influencing the nomination for election or election of any person...”² The purpose of BLUE Institute Enterprise’s activities are to provide campaign skills to individuals of color throughout the country, not to influence the election of Stacey Abrams. Therefore, BLUE Institute Enterprise’s activities are not expenditures and no coordination has occurred.

3. Conclusion

For the reasons stated above, the Complaint should be dismissed as BLUE Institute Enterprises did not make “expenditures” as that term is defined by Georgia’ campaign finance laws and no coordination between the Campaign and BLUE Institute Enterprises has occurred.

Sincerely,



Dara Lindenbaum

¹ See Advisory Opinion 2017-05 (emphasis added).

² OCGA § 21-5-3(12).